IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.287 OF 2006

Commissioner of Central Excise, Pune-1....Appellant

Versus

M/s. Alfa Laval (I) Ltd. ..Respondent

Mr.K.R. Chaudhari with Mr. N.D.Sharma and Mr. H.P. Chaturvedi, for the Appellant.
Mr. Vikram Nankani i/b. Mr. M.R. Baya, for the Respondent

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 11TH OCTOBER 2007

P.C.

. The question of law as framed reads as under;-

"Whether on the true and correct interpretation of provisions of second proviso of Section 35B of the Act, the Hon'ble CESTAT was justified in dismissing the Appeal of the Revenue in limini.?"

2. When the matter comes up for hearing it is conceded at the bar that the said proviso would not apply. In the light of that the impugned order is set aside. The matter is remanded back to the Tribunal for reconsideration and decision according to law. Appeal disposed of accordingly.

(J.P. DEVADHAR, J.) (**F.I.REBELLO**, J)